

**REMARKS/ARGUMENTS**

Upon entry of the above amendment, claims 10, 17, and 19 will have been amended, and claims 10-20 thus remain pending for consideration by the Examiner. In view of the above and following remarks, Applicant respectfully requests reconsideration of the outstanding rejections of all the claims pending in the present application. Such action is respectfully requested and is believed to be appropriate and proper.

Initially, Applicant would like to express his appreciation to the Examiner for the detailed Official Action provided.

Turning to the merits of the action, the Examiner has rejected claims 10, 15, 17, and 19 under 35 U.S.C § 103 (a) as being unpatentable over INALA et al. (U.S. Patent No.6,199,077) in view of SMITH et al. (U.S. Patent No.6,282,564 ). The Examiner has also rejected claims 11-14, 16, 18, and 20 under 35 U.S.C § 103 (a) as being unpatentable over INALA et al. in view of SMITH et al. and further in view of BRUCK et al. (U.S. Patent No.6,691,165).

As noted above, Applicant has amended claims 10, 17, and 19 for the Examiner's consideration. Applicant respectfully traverses the above rejections based on pending claims 10-20 and will discuss said rejection with respect to the pending claims in the present application, as will be set forth hereinbelow.

Applicant's claims 10-16 relate to a server apparatus which is selectively connected to a first terminal apparatus and a second terminal apparatus. The first terminal apparatus (such as, but not limited to, for example, PC 20 or

cellular telephone 30) is able to access a home page provided by the server apparatus. The second terminal apparatus (such as, but not limited to, for example, information receiver 50 that is configured to receive downloaded media data) is unable to access the home page provided by the server apparatus. It is noted that the second terminal apparatus is unrelated to (distinct from) the first terminal apparatus. The server apparatus comprises a receiver that receives a request from the first terminal apparatus that is able to access the home page. The request is input at the first terminal via the home page provided by the server apparatus. The request includes information regarding predetermined media data, such as, for example, music data, and information regarding the second terminal that is unable to access the home page. The server apparatus includes a controller, which transmits a notification to the second terminal apparatus that is unable to access the home page, based on the received request. The notification includes a value representing a size of the predetermined media data. The server apparatus receives a response to the notification from the second terminal apparatus, and transmits the predetermined media data to the second terminal apparatus when the response indicates that the second terminal apparatus is able to store the predetermined media data. Claims 19-20 recite this method.

Applicant's claims 17-18 relate to a server apparatus which is selectively connected to at least one of a first terminal apparatus and a second terminal apparatus, in which the two apparatuses are unrelated to each other. The first terminal apparatus is able to access a home page provided by the server, while

the second terminal apparatus is unable to access the home page. The server apparatus comprises a receiver that receives a request via the home page from the first terminal apparatus for predetermined media data to be transferred to the second terminal apparatus. A controller of the server apparatus determines whether the second terminal apparatus has sufficient storage space to store the requested predetermined media data. When the controller determines that the second terminal apparatus has sufficient space to store the requested predetermined media data, the controller controls the transfer of the requested predetermined media data to the second terminal apparatus.

In direct contrast, Applicant submits that INALA et al. relate to a portal server which includes a software agent. The software agent is configured to do summary searches for subscribers, based on Internet destinations provided by the subscribers, to retrieve information from such destinations, based on pre-programmed site information, and to download the summary information to the subscribers. Applicant submits that INALA et al. merely disclose a system which includes ISP 15, Internet appliance 17, server 23, server 25, and server 27, as shown in Fig.1. Specially, Applicant submit that Internet appliance 17 can make "access to a personalized, interactive WEB page, which in turn provides access to any one of a number of servers on Internet such as server 23, 25, and 27" (col.4, lines 51-58), and that a personal WEB page is displayed at the Internet appliance via Internet portal server 31 (col.9, lines 16-18), with a user of Internet appliance 17 being presented a configuration WEB page from a network server that displays in the browser window on the desktop PC (col.12, lines 18-20).

Applicant submits that INALA et al. do not contain any disclosure with respect to a second terminal apparatus that is unable to access the home page provided by the server apparatus.

Specially, Applicant submits that INALA et al. do not disclose a server apparatus which receives a request from the first terminal apparatus, that is able to access the home page, the request being input at the first terminal via the home page provided by the server apparatus, the request including information regarding predetermined media data and information regarding a second terminal that is unable to access the home page, since INALA et al. do not contain any disclosure about the second terminal apparatus that is unable to access the home page provided by the server apparatus.

For the same reason, Applicant submits that INALA et al. also do not disclose a server apparatus which transmits a notification to the second terminal apparatus that is unable to access the home page, the notification including a value representing a size of the predetermined media data, based on the received request, and receives a response to the notification from the second terminal apparatus unable to access the home page, as INALA et al. fails to disclose or even suggest a second terminal apparatus.

For the same reason, Applicant submits that INALA et al. do not disclose a server apparatus which transmits the predetermined media data to a second terminal apparatus that is unable to access the home page when the response indicates that the second terminal apparatus unable to access the home page can store the predetermined media data.

Applicant submit that the Examiner points out to Applicant col.12, lines 16-27 in the outstanding Official Action mailed on March 22, 2005. However, this recitation portion describes an appliance configuration module 83. The appliance configuration module 83 is included in summarization software agent 67, as shown in Fig.4. The summarization software agent 67 describes agent 39 in detail (col.10, lines 34-40). Agent 39 is included in page 32, as shown in Fig.2. Page 32 is a personalized portal page provided by server 31. Thus, an appliance configuration module 83 is included in the personalized portal page provided by server 31. Therefore, Applicant submits that the recitation portion does not disclose or even suggest Applicant's second terminal apparatus that is unable to access the home page provided by the server apparatus.

Thus, the pending claims are completely distinguished over INALA et al.

Applicant submits that SMITH et al. relate to an apparatus for communication information. Applicant submits that SMITH et al. do not contain any disclosure directed to the second terminal apparatus that is unable to access a home page provided by a server apparatus. Thus, Applicant submits that SMITH et al. do not disclose a server apparatus which is connected to the second terminal apparatus unable to access the home page provided by the server apparatus.

Applicant submits that SMITH et al. also do not disclose a server apparatus which receives a request from the first terminal apparatus, which is able to access the home page, the request being input at the first terminal via the home page provided by the server apparatus, the request including information

regarding predetermined media data and information regarding the second terminal that is unable to access the home page, since SMITH et al. do not contain any disclosure about a second terminal apparatus, let alone a second terminal apparatus that is unable to access the home page provided by the server apparatus.

For the same reason, Applicant submits that SMITH et al. do not disclose a server apparatus which transmits a notification to a second terminal apparatus that is unable to access the home page, in which the notification includes a value representing a size of the predetermined media data, based on the received request, and receives a response to the notification from the second terminal apparatus that is unable to access the home page.

Further, for same reason, Applicant submits that SMITH et al. do not disclose a server apparatus which transmits the predetermined media data to the second terminal apparatus that is unable to access the home page when the response indicates that the second terminal apparatus is unable to access the home page can store the predetermined media data.

Thus, Applicant submits that even if one attempted to combine the teachings of INALA et al. and SMITH et al. in the means suggested by the Examiner, such a combination would fail to render Applicant's invention obvious, as such a combination would not include two terminal apparatus that are unrelated to (distinct from) each other, in which the first terminal apparatus can access a home page of a server to request the transfer of predetermined media

data from the server to the second terminal apparatus, which is unable to access the home page on its own, as defined in Applicant's amended claims.

Therefore, it is respectfully submitted that the features recited in Applicant's claims 10-20 are not disclosed or suggested by the combination of INALA et al. and SMITH et al.. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103 rejection of claims 10, 15, 17, and 19.

Applicant further submits that BRUCK et al. fails to disclose or suggest that which is lacking from the other applied references. BRUCK et al. relate to a server system which automatically shifts network traffic from a failed machine to one or more operational machines when a server failure layer is detected, and reconfigures front-layer servers as needed without interrupting operation of the server system.

As the Examiner acknowledged in the outstanding Official Action mailed on August 3, 2004, BRUCK et al. fail to disclose a server apparatus which transmits a notification to the second terminal apparatus unable to access the home page, in which the notification indicates a value representing a size of the predetermined media data, and which receives a response to the notification from the second terminal apparatus able to access the home page. Thus, even if one attempted to add the features of BRUCK et al. to the above-discussed combination, one would fail to render Applicant's invention obvious, as such a combination would fail to include all of Applicant's claimed features.

Therefore, it is respectfully submitted that the features recited in Applicant's claims 10-20 are not disclosed by the combination of INALA et al.,

SMITH et al., and BRUCK et al. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C § 103 rejection claims 11-14, 16, 18, and 20.

Pursuant to M.P.E.P. § 714.13, Applicant contends that entry of the present amendment is appropriate because the proposed amended claims avoid the rejections set forth in the last Official Action, resulting in the application being placed in condition for allowance, or , alternatively, the revised claims place the application in better condition for purposes of appeal. Further, the revised claims do not present any new issues that would require any further consideration or search by the Examiner, and the amendment does not present any additional claims. Accordingly, entry of the present amendment is respectfully requested.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections and an indication of the allowability of all the claims pending in the present application in due course.



**SUMMARY AND CONCLUSION**

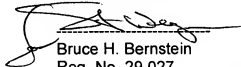
In view of the fact that none of the art of record, whether considered alone or in combination, discloses or suggests the present invention as defined by the pending claims, and in the further view of the above remarks, reconsideration of the Examiner's action and allowance of the present application is respectfully requested and is believed to be appropriate.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should the Commissioner determine that an extension of time is required in order to render this response timely and/or complete, a formal request for an extension of time, under 37 C.F.R. § 1.136(a), is herewith made in an amount equal to the time period required to render this response timely and/or complete. The Commissioner is authorized to change any required extension of time of time fee under 37 C.F.R. § 1.17 to Deposit Account No.19-0089.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
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A handwritten signature in black ink, appearing to read "Bruce H. Bernstein", is written over a horizontal dashed line.

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